

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

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UNITED STATES OF AMERICA, CR 22-50040

Plaintiff, FACTUAL BASIS STATEMENT

vs.

KYLE J. KIRCHHOFF,

Defendant.

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The undersigned defendant stipulates that the following facts are true and the parties agree they establish a factual basis for the plea in the action pursuant to Federal Rules of Criminal Procedure 11(b)(3):

On February 16, 2022, Department of the Air Force Office of Special Investigations interviewed the Defendant, then-Staff Sergeant Kyle Kirchhoff, after investigators learned of a possible sexual relationship between the Defendant and a minor female known to the Defendant and referred to herein as Jane Doe. Jane Doe was between the ages of fourteen and fifteen years old during the time the Defendant engaged in a sexual relationship with her. Following Uniform Code of Military Justice (UCMJ) Article 31 Rights advisement, the Defendant confessed to having a sexual relationship with Jane Doe starting in 2019, to continuing the sexual relationship after learning her true age, and to receiving and possessing sexually explicit images and videos of Jane Doe on his

cell phone. Kirchhoff provided to OSI a written confession and consented to providing his cell phone, passwords, and all data contained in the cell phone.

According to the Defendant, he met Jane Doe on a phone application called Tinder sometime around January 2019 and thereafter "dated" Jane Doe for ~~three~~<sup>two</sup> PE KJK years. The Defendant recalled he had sex with Jane Doe on either their first or second date. They continued having sex on an almost daily basis for the rest of their relationship until it ended in ~~early 2022~~<sup>April 2021 PE KJK</sup>. The Defendant said he decided not to ask many questions about Jane Doe's true age because he did not want to know the answer.

The Defendant provided consent for the seizure of his cellular phone via AF Form 1364, Consent to Search and Seizure. A digital forensic extraction of the Defendant's cellular phone confirmed the presence of multiple images and videos of Jane Doe engaged in sexually explicit conduct, including a video dated September 26, 2020, of Jane Doe engaging in oral sex with the Defendant. The Defendant's face is visible in the video. The Defendant filmed Jane Doe using his cellular phone while she gave him oral sex. The Defendant stored the video on his cellular phone.

At all relevant times relating to the Defendant's receipt of child pornography depicting Jane Doe, Jane Doe was under the age of 18 and the Defendant knew she was under the age of 18. All files on the Defendant's devices depicting Jane Doe engaging in sexually explicit conduct were received via

cellular phone and possessed on devices containing components manufactured outside the District of South Dakota.

ALISON J. RAMSDELL  
United States Attorney



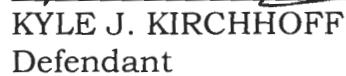
3/2/2023

Date

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Date



KYLE J. KIRCHHOFF  
Defendant



Date



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Attorney for Defendant